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EXAMINER

MADSEN, ROBERT A

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 08/13/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

09/519,999

Applicant(s)

OZAWA

Examiner

Robert Madsen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 10,11,13-18,21-25,27 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10,11,13-18,21-25,27,29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The amendment filed May 13, 2003 has been entered. Claims 26 and 28 have been cancelled. Claims 10, 11, 13-18, 21-25, 27, 29 remain pending in the application.

#### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 20, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ooyama (JP 03-136614).

4. Regarding claims 20, 22, 23, 25 Ooyama teaches an outer bag having a vapor releasing hole (i.e. bag 11 with steam pressure releasing vent 21) at the top of the bag, as recited in claim 22, and a selective liquid releasing hole (i.e. hot water draining opening 23) at the bottom of the bag as recited in claim 23, a first inner bag in the outer bag filled with liquid (i.e. water bag 12) with a liquid release hole (i.e. hot water draining opening 31) for releasing the water when heated, a second permeable inner bag (food/drink container bag item 13), containing a food or drink ingredient as recited in claim 25, for mixing with the discharged liquid from the first bag (English Translation Page 9, line 4 to Page 10, line 9 and Figures). Ooyama further teaches the liquid release hole (i.e. hot water draining opening item 31) of the first inner bag *may* be substituted with a steam pressure release hole for steaming products (Page 14, lines 1-10), which Ooyama defines as the upper part of a bag, as recited in claim 20, when

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discussing the outer bag (Page 4, line 11 to Page 5, line 7). Ooyama is silent in using a *second* inner bag *in combination* with a first inner bag having the vapor release hole, as recited in claim 20.

5. However, Ooyama teaches two different forms of food separating means (i.e. from the first inner bag) and two different food heating/cooking mediums discharged from the first inner bag. Ooyama uses a partition sheet to separate the food from the first inner bag having a vapor release hole, and the sheet is made from the same material of that Ooyama uses to form second inner bags to separate the food from the first inner bag ( i.e. thin –yarn net or unwoven cloth made of a synthetic resin on Page 8, lines 7-11 and Page 10, lines 19-23). Therefore it would have been obvious to modify Ooyama and substitute a second inner bag for the partition sheet since one would have been substituting one separating means for another for the same purpose: placing a permeable separating means between a food/drink ingredient and a first liquid – containing bag (all placed within an outer bag) so that the contents of the first liquid containing bag may permeate the separating means and cook/heat the food/drink ingredient. Additionally, Ooyama does teach that one may cook a food item using *either* a liquid release hole or vapor release hole (Page 14, lines 1-10). Therefore, to modify Ooyama, where a second inner bag contains the food/drink ingredient, and include a vapor release hole in the first inner bag would have been an obvious result effective variable of the particular cooking medium desired (i.e. steam or boiled liquid), since Ooyama teaches using either liquid or vapor to heat the food/drink ingredients.

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6. Regarding claim 24, Ooyama teaches the second inner bag may be attached to the bottom of the outer bag (Page 8, lines 23 and 24).

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ooyama (JP 03-136614) as applied to claims 20,22-25 above, further in view of Hoffman (US 3683889).

8. Regarding claim 21, Ooyama heats the outer/inner bags by external heat source and is silent in teaching providing an internal heating element in the first inner bag.

9. Hoffman is relied on as evidence of the conventionality of providing an internal heating element in the liquid holding portion of a container(including a bag) wherein the purpose of the bag is to heat the liquid to penetrate an interior bag containing a solid. Hoffman teaches the providing an internal heat source for these types of products is conventional and offers the advantage of an economical way of preparing these products without an external source of heat. (Abstract, Column 1 lines 1-63, Column 2, lines 10-24, Column 4, line 44 to Column 5, line 39). Therefore it would have been obvious to include an internal heating element in the liquid containing bag of Ooyama since it was known in the art to provide this type of heat source within a liquid compartment such that the liquid is heated to hydrate a solid in a separate permeable compartment in order to eliminate the need for an external heat source and make a more economical package. One would have been substituting one heating means for another for the same purpose.

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10. Claims 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ooyama (JP 03-136614) in view of Hoffman (US 3683889), as applied to claims 20,22-25 above, further in view of further in view of Chung (US 5741534).

11. Although Ooyama teaches combining a two food components such as soup in the first interior bag and fish in the second inner bag, Ooyama is silent in teaching any additional second inner bags disposed around the first inner bag.

12. Chung also teaches preparing multi-component food products wherein the liquid seasoning component is package separately from the food component prior heating (Column 1, line8-column 2, line 7, Column 4, lines 13-32) and is relied on as evidence of the conventionality of separately packaging more than two food components (e.g. rice and vegetables) in addition to the liquid seasoning component (e.g. gravy). Therefore, to further add any additional second inner bags to the outer bag of Ooyama would have been an obvious matter of choice depending on the recipe since it was known to prepare multi-component food products wherein one component comprises a liquid seasoning and one or more additional components comprise separately packaged food products intended to be flavored by the liquid component.

13. Claims 10,11, 13-15,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ooyama (JP 03-136614) in view of Hoffman (US 3683889).

14. Regarding claims 10,11,13,18,Ooyama teaches an outer bag having a vapor releasing hole (i.e. bag 11 with steam pressure releasing vent 21) and a selective liquid releasing hole (i.e. hot water draining opening 23), a first inner bag in the outer bag that

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is filled with liquid (i.e. water bag 12) and has a liquid release hole (i.e. hot water draining opening 31) for releasing the water when heated, a second permeable inner bag (food/drink container bag item 13) containing fish or tea, as recited in claim 11, for mixing with the discharged liquid from the first bag, and thus the water must be edible as recited in claim 13 (English Translation Page 9, line 4 to Page 10, line 9 and Figures). Furthermore, in the explanation (i.e. example from Page 12 line 4 to Page 14, line 16), Ooyama further teaches the liquid release hole (i.e. hot water draining opening item 31) of the first inner bag *may* be substituted with a steam pressure release hole for steaming products (Page 14, lines 1-10), which Ooyama defines as the upper part of a bag, as recited in claim 10, when discussing the outer bag (Page 4, line 11 to Page 5, line 7). However, Ooyama is silent in using a *second* inner bag in combination with a first inner bag having the vapor release hole as recited in claim 10, providing an *internal* heating element in the first inner bag as recited in claim 10, wherein the heating element comprises at least two separately stored chemicals that react upon application of force as recited in claim 18.

15. With respect to Ooyama being silent in using a *second* inner bag in combination with a first inner bag having the vapor release hole, Ooyama teaches two different forms of food separating means (i.e. from the first inner bag) and two different food heating/cooking mediums discharged from the first inner bag. Ooyama uses a partition sheet to separate the food from the first inner bag having a vapor release hole, and the sheet is made from the same material of that Ooyama uses to form second inner bags to separate the food from the first inner bag ( i.e. thin -yarn net or unwoven cloth made

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of a synthetic resin on Page 8, lines 7-11 and Page 10, lines 19-23). Therefore it would have been obvious to modify Ooyama and substitute a second inner bag for the partition sheet since one would have been substituting one separating means for another for the same purpose: placing a permeable separating means between a food/drink ingredient and a first liquid –containing bag (all placed within an outer bag) so that the contents of the first liquid containing bag may permeate the separating means and cook/heat the food/drink ingredient. Additionally, Ooyama does teach that one may cook a food item using *either* a liquid release hole or vapor release hole (Page 14, lines 1-10). Therefore, to modify Ooyama, where a second inner bag contains the food/drink ingredient, and include a vapor release hole in the first inner bag would have been an obvious result effective variable of the particular cooking medium desired (i.e. steam or boiled liquid), since Ooyama teaches using either liquid or vapor to heat the food/drink ingredients.

16. With respect to providing an internal heating element in the first inner bag as recited in claim 10, wherein the heating element comprises at least two separately stored chemicals that react upon application of force as recited in claim 18, Ooyama teaches external heating of the first inner bag. However, Hoffman is relied on as evidence of the conventionality of providing an internal heating element in the liquid holding portion of a container (including a bag) wherein the purpose of the bag is to heat the liquid to penetrate an interior bag containing a solid. Hoffman teaches the providing an internal heat source for these types of products is conventional and offers the advantage of an economical way of preparing these products without an external source

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of heat. Hoffman further teaches the element comprises two separate chemicals that react upon applying force to heat the container, as recited in claim 18 (Abstract, Column 1 lines 1-63, Column 2, lines 10-24, Column 4, line 44 to Column 5, line 39). Therefore it would have been obvious to include an internal heating element in the liquid containing bag of Ooyama wherein at least two separated chemicals react as a result of external force since it was known in the art to provide this type of heat source within a liquid compartment such that the liquid is heated to hydrate a solid in a separate permeable compartment in order to eliminate the need for an external heat source and make a more economical package. One would have been substituting one heating means for another for the same purpose.

17. Regarding claim 14, the second inner bag (food/drink container bag 13) is attached to the bottom surface of the outer bag (Page 8, lines 23 and 24).

18. Regarding claims 15, Ooyama teaches the second seal is released at a given pressure (Page 5, lines 21-24) and temperature (95-100°C in the example) to effectively steam/season the food for a particular time (1 minute 45 seconds in the example) without causing textural problems (example from Page 12 line 4 to Page 13, line 24 and Page 14 lines 1-24). Since the second seal is released at a particular pressure/temperature, Ooyama teaches the second seal of the bag is time adjustable. For example, a higher designated pressure for the second seal would result in a *longer* cooking time. Additionally, any particular designated pressure/temperature would depend on the amount of heat applied (i.e. a lower heat source temperature would

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require a longer time to reach the release pressure than a higher heat source temperature).

19. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ooyama (JP 03-136614) in view of Hoffman (US 3683889), as applied to claims 10,11, 13-15,18 above, further in view of Yoshio et al. (JP06329179).

20. Ooyama is silent in teaching, an indicator for displaying the time when the closure is open as recited in claim 16 and a pressure indicator as recited in claim 17.

21. Yoshio et al. ('179) also teach a second seal for an outer bag to maintain uniform pressure during cooking to assure a flavor (See item 24 in Drawing 16 in light of the Abstract, Paragraphs 0036-0038,0044-0046). Yoshio et al. ('179) are relied on as evidence of the conventionality of providing an "indicator for displaying the time when the seal is open" since Yoshio et al. ('179) teach the seal lifts up and away from the bag when the desired pressure is reached, thus indicating time when the seal is open.

Furthermore, by lifting away from the bag, the closure serves as a pressure indicator, or indicates pressure has exceeded the designated pressure (Drawings, Paragraphs 0036-0038,0044-0046). Therefore, it would have been further obvious to include a second closure that provides an indicator for displaying the time when the seal is open, as recited in claim 16, since one would have been substituting one type of second seal for another for the same purpose: maintaining uniform pressure during cooking to assure the desired flavor for a desired time. It also would have been to provide a second seal that provides a pressure indicator, as recited in claim 17, since this would signify when an excessive pressure has been reached and one would have substituting

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one type of second seal for another for the same purpose: maintaining uniform pressure during cooking to assure the desired flavor for a desired time.

22. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ooyama (JP 03-136614) in view of Hoffman (US 3683889), as applied to claims 10,11, 13-15,18 above, further in view of Chung (US 5741534).

23. Although Ooyama teaches combining a two food components such as soup in the first interior bag and fish in the second inner bag, Ooyama is silent in teaching any additional second inner bags disposed around the first inner bag.

24. Chung also teaches preparing multi-component food products wherein the liquid seasoning component is package separately from the food component prior heating (Column 1, line8-column 2, line 7, Column 4, lines 13-32) and is relied on as evidence of the conventionality of separately packaging more than two food components (e.g. rice and vegetables) in addition to the liquid seasoning component (e.g. gravy). Therefore, to further add any additional second inner bags to the outer bag of Ooyama would have been an obvious matter of choice depending on the recipe since it was known to prepare multi-component food products wherein one component comprises a liquid seasoning and one or more additional components comprise separately packaged food products intended to be flavored by the liquid component.

### ***Response to Arguments***

25. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (703)305-0068. The examiner can normally be reached on 7:00AM-3:30PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703)308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9310 for regular communications and (703)872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0061.

Robert Madsen   
Examiner  
Art Unit 1761  
August 11, 2003

  
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